

**SENATE BILL**

**No. 45**

**Introduced by Senator Oller**

May 17, 2001

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An act to add Chapter 6.5 (commencing with Section 12899) to Part 6 of Division 6 of the Water Code, relating to financing an Auburn Dam power generation, water supply, and water quality protection program by providing the funds necessary therefor through an election for, and the issuance and sale of, bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 45, as introduced, Oller. Auburn Dam water power generation, water supply, and water quality protection program: bonds.

Existing law authorizes the Department of Water Resources to design, construct, operate, and maintain various water development facilities.

This bill would enact the Auburn Dam Power Generation, Water Supply, And Water Quality Protection Bond Act Of 2001 which, if adopted, would authorize, for purposes of financing the Auburn Dam Project, the issuance, pursuant to the State General Obligation Bond Law, of bonds in an unspecified amount. The bill would require that all other sources of funding available to the department, including, but not limited to, money from federal and local flood control entities, money from local entities that seek to purchase surplus water, and money from power supply interests, be used for construction of the Auburn Dam Project either before, or in conjunction with, the available bond proceeds.

The bill would provide for submission of the bond act to the voters at the \_\_\_\_ election in accordance with applicable law.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 6.5 (commencing with Section 12899) is added to Part 6 of Division 6 of the Water Code, to read:

CHAPTER 6.5. AUBURN DAM POWER GENERATION, WATER SUPPLY, AND WATER QUALITY PROTECTION BOND ACT OF 2001

Article 1. General Provisions

12899. This chapter shall be known and may be cited as the Auburn Dam Power Generation, Water Supply, and Water Quality Protection Bond Act of 2001.

12899.2. The Legislature finds and declares all of the following:

(a) A multipurpose Auburn Dam will provide substantial electrical generation and will greatly assist in meeting future power needs in nearby areas.

(b) A multipurpose Auburn Dam will make possible increased waterflows for the protection of environmental water uses within the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, including the enhancement of recreation and fish and wildlife resources.

(c) A multipurpose Auburn Dam will provide essential flood protection for the Sacramento region, and thereby protect public resources and facilities, and will greatly assist in meeting the future water needs of nearby areas.

(d) The state's history of floods and droughts have demonstrated the urgent need for construction of a multipurpose Auburn Dam to protect and enhance California's environment and economy.

(e) The construction of a multipurpose Auburn Dam that will provide major environmental and related benefits for the people of California will cost only an extra \_\_\_\_ cents per month for each beneficiary, excluding interest.

12899.4. As used in this chapter, the following terms have the following meanings:

(a) The “Auburn Dam Project” is a multipurpose dam and reservoir on the North Fork of the American River in the vicinity of the City of Auburn in Placer County, including appurtenant facilities for power generation and transmission, water conservation and transportation, flood control, recreation, water quality, and fish and wildlife protection and enhancement.

(b) The “committee” is the Auburn Dam Power Generation, Water Supply, and Water Quality Protection Finance Committee.

(c) The “department” is the Department of Water Resources.

(d) The “fund” is the Auburn Dam Power Generation, Water Supply, and Water Quality Protection Bond Fund established in the State Treasury under Section 12899.10.

Article 2. Auburn Dam Power Generation, Water Supply, and Water Quality Protection Program

12899.10. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Auburn Dam Power Generation, Water Supply, and Water Quality Protection Bond Fund, which is hereby established in the State Treasury.

12899.12. Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to the department, without regard to fiscal years, for purposes of the Auburn Dam Project.

12899.13. All other sources of funding available to the department, including, but not limited to, money from federal and local flood control entities, money from local entities that seek to purchase surplus water, and money from power supply interests, shall be used for construction of the Auburn Dam Project either before, or in conjunction with, the bond proceeds available pursuant to this chapter.

12899.14. The Auburn Dam Project may not be included as part of the State Water Resources Development System and shall

1 be constructed, operated, and maintained by the department as a  
2 separate and independent project.

3 12899.16. The department may exercise the powers vested in  
4 it under Part 3 (commencing with Section 11100), as the  
5 provisions of that part may be amended, for purposes of  
6 constructing, operating, and maintaining the Auburn Dam Project.

7 12899.18. The department may conduct any technical,  
8 feasibility, legal, economic, or other studies relating to the Auburn  
9 Dam Project and may enter into agreements with the federal  
10 government concerning land acquisition, construction, financing,  
11 and operation of the project, but no authorization or agreement by  
12 the federal government shall be required for construction of the  
13 Auburn Dam Project.

14 12899.20. The water supply of the Auburn Dam Project shall  
15 be used for the following purposes and in the following order of  
16 priority:

17 (a) Providing increased flows to meet requirements established  
18 by the State Water Resources Control Board or the courts for the  
19 protection and enhancement of public trust uses of the waters of  
20 the Sacramento-San Joaquin Delta and the San Francisco Bay,  
21 including, but not limited to, recreational, fisheries, wildlife, and  
22 other environmental purposes. Costs of providing water for these  
23 purposes are not reimbursable.

24 (b) Providing water to meet needs within the areas of origin and  
25 adjacent areas.

26 (c) Providing water for export to other areas.

27 12899.21. Any terms and conditions imposed by the State  
28 Water Resources Control Board in connection with the  
29 construction of the Auburn Dam Project shall be designed to  
30 protect the instream uses of the American River downstream from  
31 the project.

32 12899.22. (a) The department, subject to terms and  
33 conditions as may be prescribed by the Legislature and subject to  
34 the requirements of Section 12899.20, may enter into contracts for  
35 the sale, delivery, or use of water or power, or for other services  
36 and facilities, made available by the Auburn Dam Project.

37 (b) All proceeds derived from the sale, delivery, or use of water  
38 or power, or for other services and facilities, made available by the  
39 Auburn Dam Project shall be deposited in the fund and shall be  
40 available for expenditure for the costs of operation and

1 maintenance of the project and for providing reimbursement to the  
2 General Fund as provided in this section.

3 (c) Any money received by the department pursuant to any  
4 contract executed under this chapter as a contribution to the  
5 construction, operation, or maintenance of the Auburn Dam  
6 Project for flood control, including, but not limited to, any money  
7 that may be received from the United States or from any state or  
8 public agency, shall be deposited in a special account in the fund  
9 and, notwithstanding Section 13340 of the Government Code, is  
10 continuously appropriated to the department for annual operation  
11 and maintenance costs of the Auburn Dam Project.

12 (d) Any revenues received by the department in excess of the  
13 reasonable annual operation and maintenance costs shall be  
14 deposited in the General Fund as reimbursement for the payment  
15 of the principal of, and interest on, bonds issued pursuant to this  
16 chapter.

17 12899.23. The Auburn Dam Project shall be named the B.T.  
18 Collins Memorial Dam.

19 12899.24. Nothing in this chapter affects any existing water  
20 rights.

### 21 Article 3. Fiscal Provisions

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23  
24 12899.30. Bonds in the total amount of \_\_\_\_ hundred million  
25 dollars (\$\_\_\_\_,000,000), exclusive of refunding bonds, or so  
26 much thereof as is necessary, may be issued and sold to provide a  
27 fund to be used for carrying out the purposes expressed in this  
28 chapter and to be used to reimburse the General Obligation Bond  
29 Expense Revolving Fund pursuant to Section 16724.5 of the  
30 Government Code. The bonds, when sold, shall be and constitute  
31 a valid and binding obligation of the State of California, and the  
32 full faith and credit of the State of California is hereby pledged for  
33 the punctual payment of both principal of, and interest on, the  
34 bonds as the principal and interest become due and payable.

35 12899.32. The bonds authorized by this chapter shall be  
36 prepared, executed, issued, sold, paid, and redeemed as provided  
37 in the State General Obligation Bond Law (Chapter 4  
38 (commencing with Section 16720) of Part 3 of Division 4 of Title  
39 2 of the Government Code), and all of the provisions of that law

1 apply to the bonds and to this chapter and are hereby incorporated  
2 in this chapter as though set forth in full in this chapter.

3 12899.34. (a) Solely for the purpose of authorizing the  
4 issuance and sale, pursuant to the State General Obligation Bond  
5 Law, of the bonds authorized by this chapter, the Auburn Dam  
6 Water Quality Protection Finance Committee is hereby created.  
7 For purposes of this chapter, the Auburn Dam Power Generation,  
8 Water Supply and Water Quality Protection Finance Committee is  
9 ‘the committee’ as that term is used in the State General Obligation  
10 Bond Law. The committee consists of the Governor, the  
11 Controller, the Treasurer, the Director of Finance, and the Director  
12 of Water Resources, or their designated representatives. A  
13 majority of the committee may act for the committee.

14 (b) For purposes of the State General Obligation Bond Law, the  
15 department is designated the ‘board.’

16 12899.36. The committee shall determine whether or not it is  
17 necessary or desirable to issue bonds and, if so, the amount of  
18 bonds to be issued and sold. Successive issues of bonds may be  
19 authorized and sold to carry out those actions progressively, and  
20 it is not necessary that all of the bonds authorized to be issued be  
21 sold at any one time.

22 12899.38. There shall be collected each year and in the same  
23 manner and at the same time as other state revenue is collected, in  
24 addition to the ordinary revenues of the state, a sum in an amount  
25 required to pay the principal of, and interest on, the bonds each  
26 year. It is the duty of all officers charged by law with any duty in  
27 regard to the collection of the revenue to do and perform each and  
28 every act which is necessary to collect that additional sum.

29 12899.40. Notwithstanding Section 13340 of the  
30 Government Code, there is hereby continuously appropriated  
31 from the General Fund in the State Treasury, for the purposes of  
32 this chapter, an amount that will equal the total of the following:

33 (a) The sum annually necessary to pay the principal of, and  
34 interest on, bonds issued and sold pursuant to this chapter, as the  
35 principal and interest become due and payable.

36 (b) The sum which is necessary to carry out the provisions of  
37 Section 12899.42, appropriated without regard to fiscal years.

38 12899.42. For the purposes of carrying out this chapter, the  
39 Director of Finance may authorize the withdrawal from the  
40 General Fund of an amount or amounts not to exceed the amount

of the unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds for the purpose of carrying out this chapter.

12899.44. The department may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents as are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the department in accordance with this chapter.

12899.46. Notwithstanding any provision of this chapter or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter and there is a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds, and the Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

12899.48. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

12899.50. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law. Approval by the voters of the state of the issuance of the bonds includes the approval of the issuance of any



1 bonds issued to refund any bonds originally issued or any  
2 previously issued refunding bonds.

3 12899.52. The Legislature hereby finds and declares that,  
4 inasmuch as the proceeds from the sale of bonds authorized by this  
5 chapter are not “proceeds of taxes” as that term is used in Article  
6 XIII B of the California Constitution, the disbursement of these  
7 proceeds is not subject to the limitations imposed by that article.

8 SEC. 2. Section 1 of this act shall take effect upon the  
9 adoption by the voters of the Auburn Dam Power Generation,  
10 Water Supply, and Water Quality Protection Bond Act of 2001, as  
11 set forth in Section 1 of this act.

12 SEC. 3. Section 1 of this act shall be submitted to the voters  
13 at the \_\_\_\_ election in accordance with provisions of the  
14 Government Code and the Elections Code governing the  
15 submission of statewide measures to the voters.

16 SEC. 4. (a) Notwithstanding any other provision of law, all  
17 ballots of the election shall have printed thereon and in a square  
18 thereof, the words: “Auburn Dam Power Generation, Water  
19 Supply, and Water Quality Protection Bond Act of 2001,” and in  
20 the same square under those words, the following in 8-point type:  
21 “This act provides for a bond issue of \_\_\_\_ hundred million  
22 dollars (\$\_\_\_\_,000,000) to provide funds for an Auburn Dam  
23 water quality protection program.” Opposite the square, there  
24 shall be left spaces in which the voters may place a cross in the  
25 manner required by law to indicate whether they vote for or against  
26 the act.

27 (b) Where the voting in the election is done by means of voting  
28 machines used pursuant to law in the manner that carries out the  
29 intent of this section, the use of the voting machines and the  
30 expression of the voters’ choice by means thereof are in  
31 compliance with this section.

32 SEC. 5. This act is an urgency statute necessary for the  
33 immediate preservation of the public peace, health, or safety  
34 within the meaning of Article IV of the Constitution and shall go  
35 into immediate effect. The facts constituting the necessity are:

36 In order to respond at the earliest possible time to the severe  
37 power shortage which this state is experiencing, to increase the  
38 water supply and water quality protection, and thereby protecting





- 1 the public health and safety, it is necessary that this act take effect
- 2 immediately.

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